

[Assessor — Multi year valuation — Tax appeals]

Opinion No. 99-006

Mr. Fred Kelly
Chief Deputy Assessor
Maricopa County Assessor's Office
301 West Jefferson, 3rd Floor
Phoenix, Arizona 85003

October 19, 1999

Syllabus.

A county assessor can use the same full cash value for two years for properties in classes two, three and four. If the assessor uses the same full cash value for two years, the taxpayer may appeal this value in each tax year. The postcard notice to property owners should state that the same value is being used for two years, but that they may appeal for each year. The amendments in HB 2634 do not affect the assessor's ability to use the same full cash value for two consecutive years for these classes.

Dear Mr. Kelly:

You have asked the following questions:

1. Do existing statutes allow the assessor to implement a two-year valuation cycle for real property in classes two, three and four?
2. Does the word "file" used in A.R.S. § 42-13052(1) require a county assessor to get approval from the Department of Revenue if it implements a two-year valuation cycle for these classes?
3. How is a taxpayer's right to appeal each year affected by a two-year valuation cycle?
4. What information would be required on a taxpayer-valuation card for a two-year valuation cycle?
5. Does HB 2634 affect or change the assessor's ability to use the same valuation for two years or implement a two-year valuation cycle?

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ANALYSIS

In answer to your first question, the existing statutes presently allow a county assessor to use the same full cash value for two years in a row.¹ Therefore, the assessor can implement a two-year full cash valuation cycle for real property in classes two, three and four if certain actions are taken as set forth below.²

The two statutes that relate to this issue are A.R.S. § 42-13051(B)(2) and A.R.S. § 42-13052. The first statute requires a county assessor to determine the full cash value of all real property as of January 1 of the next year. The second statute allows the assessor to use the same valuation for up to three years for specific classes of property. The relevant portions of the statutes are as follows:

¹Tax on real property is determined by multiplying the property's assessed value by the tax rate. A property's assessed value is determined by its classification. Your opinion request refers to class four, which includes agricultural and vacant land, class five which includes residential property, and class six, which includes rented residential property. However, these were renumbered under HB 2634 to classes two, three, and four. House Bill 2634, Laws 1999 (First Reg. Sess.) Ch. 344, § 11 was codified as A.R.S. §§ 42-12001 through 42-12010 and became effective August 6, 1999, and applies for computing property tax for the 2000 valuation year.

²The limited value will still need to be recalculated on an annual basis as required by A.R.S. §§ 42-13301 and 42-13302.

§ 42-13051. Duties of county assessor

The assessor shall:

2. Determine the full cash value of all such property as of January 1 of the next year . . .

§ 42-13052. Continuing valuation of class two, three and four property

In the case of property that is classified as class two, three, or four as set forth in A.R.S. §§ 42-12002, 42-12003 or 42-12004, the assessor may use the same valuation for up to three consecutive tax years if:

1. The assessor files a specific plan for the valuations with the department.
2. The plan is implemented uniformly throughout the county.

It is a fundamental rule of statutory interpretation that what the Legislature intends, it will say, and that the best and most reliable index of a statute's meaning is its language. Absent a clear indication of legislative intent to the contrary, the Arizona Supreme Court will not construe the words of a statute to mean something other than what they plainly state. *Cannon School District. No 50 v. W.E.S. Const. Co., Inc.*, 177 Ariz. 526, 529, 869 P.2d 500, 503 (1994). When applying this rule and when these statutes are read together, the meaning is plain and unambiguous. An assessor must value all real property every year, except that the same value may be used for up to three years for real property in the three listed classes, so long as the plan is applied uniformly and the county assessor "files" a plan with the Department of Revenue.

Your second question asks if the word "file" used in A.R.S. § 42-13052(1) requires a county assessor to get approval from the Department of Revenue as a condition of implementing a two-year cycle?

The word "file" in A.R.S. § 42-13052 only requires that the assessor file the plan. It does not require approval from the department. The presumption that the legislature means what it says also applies here. Therefore, if the legislature had intended to require approval as a prerequisite to an assessor using the same value for two years, it would have stated this in the statute. Support for this conclusion can be found in A.R.S. § 42-

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12154, which permits an assessor to deviate from certain agricultural land guidelines

“ . . . upon the approval of the department.”

(Emphasis added.)

See also *Black's Law Dictionary*, 6th Ed. which defines the word “file” when used as a verb in the context of an official as:

[T]o deliver an instrument or other paper to the proper officer or official for the purpose of being kept on file by him as a matter of record and reference in the proper place. It carries the idea of permanent preservation as a public record.

For the reasons stated above we conclude that the assessor needs to deliver the plan, but approval of the plan by the department is not needed.

In response to your third question, all property tax appeals, whether administrative or to court, must be filed during the valuation year.³ The use of A.R.S. § 42-13052 to implement a two-year cycle does not affect this process.

A.R.S. § 42-13052 provides that the assessor may use the same “valuation” for up to three consecutive tax years. A.R.S. § 42-10101(13) defines “valuation” as the full cash value or limited property value, whichever applies, found for use on the roll. The term “valuation” must be distinguished from the terms “valuation date” and “valuation year.” A.R.S. § 42-10101(14) defines the “valuation date” as January 1 of the year preceding the year in which taxes are levied. A.R.S. § 42-10101(15) defines “valuation year” as the calendar year preceding the year in which the taxes are levied.

The legislature’s use of the term “valuation” in A.R.S. § 43-13052, instead of “valuation date”, indicates that the same valuation can be used for three consecutive

³The taxation process of real property in Arizona for *each* calendar year is a two-year process. The first year is the valuation year during which all appeals are begun. The second year involves the tax year during which the first half of the taxes must be paid. A.R.S. § 42-11001(15).

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valuation dates as opposed to having one valuation date for three consecutive years. This means that if the assessor chooses to go to a "two-year cycle" he will use the same valuation each of the two years, and that each of these two years has its own valuation date and is a separate valuation year. Therefore, the property owner will have a right to appeal each year even if the same value is used for two consecutive years.

Your fourth question asks, what information would be required on the information card for a two-year valuation cycle. At a minimum the assessor should advise the taxpayer that he is using the same value for two years in a row pursuant to A.R.S. § 42-13052, and that the appeals process can be used in each year.⁴

In addressing your last question, the changes that HB 2634 makes to the classification statutes relate to form and not to substance. The change renumbers the

classification statutes and retains A.R.S. § 42-13052. Therefore, it does not change the assessor's ability to use the same value for two years.

CONCLUSION

Existing statutes authorize the assessor to use the same full cash value for two years for classes two, three and four as long as this is done uniformly throughout the County and the plan is filed with the Department of Revenue. The use of the same full cash value for two years does not affect the appeals process. The postcard notice should advise property owners that the same value is being used for two years, and the property owner has appeal rights for each year. HB 2634 does not change the assessor's ability to use the same valuation for two years.

Very truly yours,

RICHARD M. ROMLEY
MARICOPA COUNTY ATTORNEY
DIVISION OF COUNTY COUNSEL

⁴The tax section of County Counsel is available to assist in preparing the proper language for the notice if the assessor chooses to use the same valuation for two years.

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Sandor Shuch
Deputy County Attorney

Approved by the Opinion Review
Committee of the Maricopa County
Attorney's Office this 19th day
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Request No. 99MCA13